

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

Crl.Rev.Pet.No. 234 of 2000

**CRL.A.37/1998 OF SESSIONS COURT, THRISSUR,
C.C. 4/1996 OF JUDL. MAGISTRATE OF FIRST CLASS COURT-II, THRISSUR.**

REVISION PETITIONER/ APPELLANT/ ACCUSED:

**T.D. NANDAKUMAR,
S/O. DAMODHARAN,
THARAYIL HOUSE,
P.O. MANAKODY, THRISSUR.**

**BY ADV. SRI.P.VIJAYA BHANU,
ADV. SRI.S.R.MANOJ.**

RESPONDENTS/ RESPONDENTS/ STATE/ COMPLAINANT:

- 1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.**
- 2. THE FOOD INSPECTOR,
THRISSUR CIRCLE.**

BY PUBLIC PROSECUTOR SRI. K.C. SANTHOSH KUMAR.

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 29/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

J.B. KOSHY, J.

Crl.R.P. NO. 234 of 2000

Dated this the 29th day of October, 2007

Order

Revision petitioner was convicted for the offence punishable under section 2 (1a) (a) (b) (m) and 7 (1) read with section 16 (1) (a) (1) of the Prevention of Food Adulteration Act and rule 5 Appendix B.A.05.11 of the Prevention of Food Adulteration Rules. He was convicted and sentenced to undergo simple imprisonment for six months.

2. PW1 Food Inspector visited the shop of the revision petitioner and purchased 450 grams of fenu greek (ഉലുവ). It was taken in three new plastic cover purchased and sampled and sent for analysis. On analysis, it was found that it contained impurities more than that is allowed as per the Act and Rules. In the revision application, trial court and appellate court concurrently found that petitioner was guilty for the offence alleged against him. In the revision application, three contentions are made. First, it is contended that there is violation of rule 14 as sampling was not done in a clean container. Secondly, it was contended that the Food Inspector did not make the matter homogeneous. Thirdly, it was contended that the mahazar was not signed by independent

witnesses and there is violation of section 10 (7). Evidence of PW1 shows that he purchased 450 grams of fenu greek (ഉലുവ) from the petitioner. It was divided into three equal parts of 150 grams each and packed in a clean plastic cover. It is stated as follows:

‘പ്രസ്തുത ഉലുവ 3 സമഭാഗങ്ങളാക്കി ഏകദേശം 150 ഗ്രാം വീതം വൃത്തിയുള്ളതും ഇർപ്പരഹിതവുമായ പോളിത്തീൻ കവരുകളിലാക്കി.’

Of course, in cross-examination, he stated that new plastic covers purchased from the shop and he cannot certify its purity, but, in re-examination, he again stated that at the time when sample was taken, plastic cover was clean and dry. I am of opinion that PW1 Food Inspector has clearly proved the burden that the fenu greek purchased was sampled in clean and dry containers. The necessary burden is discharged. There is no other evidence to show that it was not clean. No other contrary evidence was also adduced.

3. Main contention raised before the trial court was that fenu greek was purchased from a big packet and, therefore, contents are not homogeneous. It is seen that he has purchased 450 grams of fenu greek from the packet. Small quantity was divided into three equal parts and two samples examined by the Central Laboratory and Public Analyst contained more than

permissible impurity. With regard to the contention that no independent witness was signed the mahazar, PW1 was cross-examined. He stated that he invited several persons for signing the mahazar, but, they refused and mahazar shows that a peon in the department had signed it. It cannot be stated that there is no serious statutory violation. In any event, I am of the view that the contentions raised by the petitioner was considered by the two courts meticulously and concurrently they found that the accused is guilty for the offence charged. I see no ground to interfere in the conviction and sentence in revisional jurisdiction. The Criminal Revision Petition is dismissed.

J . B . KOSHY
JUDGE

J.B. KOSHY, J.

Crl.R.P. No.234/2000

Order

Dated:29th October, 2007